

REMARKS / ARGUMENTS

The present application includes pending claims 1-36, all of which have been rejected. By this Amendment, claims 2-9 and 14-21 have been amended, as set forth above, to further clarify the language used in these claims and to further prosecution of the present application. The Applicant respectfully submits that the claims define patentable subject matter.

Initially, the Applicant notes that a goal of patent examination is to provide a prompt and complete examination of a patent application.

It is essential that patent applicants obtain a prompt yet complete examination of their applications. Under the principles of compact prosecution, each claim should be reviewed for compliance with every statutory requirement for patentability in the *initial* review of the application, even if one or more claims are found to be deficient with respect to some statutory requirement. Thus, Office personnel *should* state *all* reasons and bases for rejecting claims in the *first* Office action. Deficiencies should be explained clearly, particularly when they serve as a basis for a rejection. Whenever practicable, Office personnel should indicate how rejections may be overcome and how problems may be resolved. A failure to follow this approach can lead to unnecessary delays in the prosecution of the application.

See Manual of Patent Examining Procedure (MPEP) § 2106(II). As such, the Applicant assumes, based on the goals of patent examination noted above, that the present Office Action has set forth "all reasons and bases" for rejecting the claims.

Claims 1-36 stand rejected under 35 U.S.C. § 102(b) as being anticipated by US Patent No. 5,465,410, issued to Hiben, et al. (hereinafter, Hiben). The

Application No. 10/810,186
Reply to Office Action of July 5, 2007

Applicant respectfully traverses these rejections at least based on the following remarks.

REJECTION UNDER 35 U.S.C. § 102

I. Hiben Does Not Anticipate Claims 1-36

The Applicant turns to the rejection of claims 1-36 under 35 U.S.C. 102(b) as being anticipated by Hiben. With regard to the anticipation rejections under 102(b), MPEP 2131 states that “[a] claim is anticipated only if **each and every element** as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.” See Manual of Patent Examining Procedure (MPEP) at 2131 (internal citation omitted). Furthermore, “[t]he identical invention must be shown in as complete detail as is contained in the ... claim.” See *id.* (internal citation omitted).

Hiben discloses an FM receiver (100) that includes a plurality of filtering elements (120-124) that have various center frequencies and bandwidths that adjust to maximize the signal quality of a desired signal (104), and recovers the desired signal (104) by inputting the desired signal (104) to each of the plurality of filtering elements (120-124). See Hiben at Abstract.

A. Rejection of Independent Claims 1, 13, and 25 under 35 U.S.C. § 102 (b)

With regard to the rejection of independent claim 1 under 35 U.S.C. § 102(b), the Applicant submits that Hiben does not disclose or suggest at least the limitation of "modifying the signal quality metric for each of the plurality of signal paths," as recited by the Applicant in independent claim 1.

The Office Action states the following:

Referring to Claim 1, Hiben teaches a method for choosing at least one signal path, the method comprising: Determining a signal quality metric for each of a plurality of signal paths (see col. 2, lines 33-43); Modifying the signal quality metric for each of the plurality of signal paths (see col. 3, lines 62-67); and Selecting at least one signal path based on the at least one modified signal quality metric (see col. 4, lines 3-8).

See the Office Action at page 2. The Examiner is referring for support to the following citation of Hiben:

The smaller bandwidth filter (124) in the filter bank (108) has a center frequency f_5 , equal to f_1 , and a bandwidth B_5 , that is Y_5 Hz smaller than B_1 . This filter maximizes the signal quality metric of the recovered signal when interference is present from both upper and lower adjacent channels. In this case, filters with frequency adjusted higher or lower in frequency from f_1 , or with a bandwidth larger than B_1 , still intercept the adjacent channel interference.

See Hiben at col. 3, lines 60-67. Referring to Figure 1 of Hiben, the Applicant points out that the quality metric generators within the signal recoverers 110-114 determine the quality of the respective signals and send a signal quality metric

(137) to the encoder (118). See *id.* at col. 2, lines 30-39. The encoder (118) then identifies a favorably recovered signal, recovered by the recoverers 110-114, based on the signal quality metric. **The encoder (118) does not modify any of the signal quality metrics generated by the signal recoverers 110-114.** Instead, **the encoder (118) identifies a favorably recovered signal based on a highest signal quality metric.** See *id.* at col. 2, lines 39-47. Therefore, the Applicant maintains that Hiben does not disclose or suggest at least the limitation of "modifying the signal quality metric for each of the plurality of signal paths," as recited by the Applicant in independent claim 1.

Accordingly, independent claim 1 is not anticipated by Hiben and is allowable. Independent claims 13 and 25 are similar in many respects to the method disclosed in independent claim 1. Therefore, the Applicant submits that independent claims 13 and 25 are also allowable over the references cited in the Office Action at least for the reasons stated above with regard to claim 1.

B. Rejection of Dependent Claims 2-12, 14-24, and 26-36

Based on at least the foregoing, the Applicant believes the rejection of independent claims 1, 13, and 25 under 35 U.S.C. § 102(b) as being anticipated by Hiben has been overcome and request that the rejection be withdrawn. Additionally, claims 2-12, 14-24, and 26-36 depend from independent claims 1, 13, and 25, respectively, and are, consequently, also respectfully submitted to be

Application No. 10/810,186
Reply to Office Action of July 5, 2007

allowable.

Applicant also reserves the right to argue additional reasons beyond those set forth above to support the allowability of claims 1-36.

Application No. 10/810,186
Reply to Office Action of July 5, 2007

CONCLUSION

Based on at least the foregoing, the Applicant believes that all claims 1-36 are in condition for allowance. If the Examiner disagrees, the Applicant respectfully requests a telephone interview, and request that the Examiner telephone the undersigned Attorney at (312) 775-8176.

The Commissioner is hereby authorized to charge any additional fees or credit any overpayment to the deposit account of McAndrews, Held & Malloy, Ltd., Account No. 13-0017.

A Notice of Allowability is courteously solicited.

Respectfully submitted,

Date: 01-OCT-2007

/Ognyan I. Beremski/

Ognyan Beremski, Esq.
Registration No. 51,458
Attorney for Applicant

MCANDREWS, HELD & MALLOY, LTD.
500 WEST MADISON STREET, 34TH FLOOR
CHICAGO, ILLINOIS 60661
(312) 775-8000

/ OIB